



April 25, 2002

Ms. Myrna S. Reingold  
Galveston County Legal Department  
4127 Shearn Moody Plaza  
123 Rosenberg  
Galveston, Texas 77550-1454

OR2002-2124

Dear Ms. Reingold:

You ask whether certain information is subject to required public disclosure under chapter 552 of the Government Code. Your request was assigned ID# 161810.

The Galveston County Sheriff Department (the "department") received a request for any records pertaining to a named inmate of the Galveston County Jail. You claim that the requested information is excepted from disclosure under sections 552.101 and 552.108 of the Government Code. We have considered the exceptions you claim and have reviewed the submitted information.

Specifically, you claim that the requested information is excepted from required public disclosure under section 552.101 in conjunction with chapters 411 and 559 of the Government Code and the common-law right to privacy, as well as sections 552.108(a)(1) and (b)(1). Generally, this office would address each of your arguments in turn. In this instance, however, you advise that a court order applies to the requested information. Although you seek to withhold the requested information under section 552.101 in conjunction with the court order, we conclude that the more appropriate exception in this instance is section 552.107(2). Section 552.107 provides that

Information is excepted from [required public disclosure] if:

.....

(2) a court order has prohibited disclosure of the information.

Gov't Code § 552.107(2). You advise that the district court in which a criminal case is pending against the inmate has issued a "gag" order. The order, which you have submitted, is dated December 17, 2001. The order prohibits the department, among other law enforcement agencies, from communicating any information about the case or the defendant to any news media personnel. The requestor is a reporter for a newspaper. We therefore defer to the court, and conclude that the requested information must be withheld under section 552.107(2). As section 552.107 is dispositive, we do not address your claims under section 552.101 or under section 552.108.

This letter ruling is limited to the particular records at issue in this request and limited to the facts as presented to us; therefore, this ruling must not be relied upon as a previous determination regarding any other records or any other circumstances.

This ruling triggers important deadlines regarding the rights and responsibilities of the governmental body and of the requestor. For example, governmental bodies are prohibited from asking the attorney general to reconsider this ruling. Gov't Code § 552.301(f). If the governmental body wants to challenge this ruling, the governmental body must appeal by filing suit in Travis County within 30 calendar days. *Id.* § 552.324(b). In order to get the full benefit of such an appeal, the governmental body must file suit within 10 calendar days. *Id.* § 552.353(b)(3), (c). If the governmental body does not appeal this ruling and the governmental body does not comply with it, then both the requestor and the attorney general have the right to file suit against the governmental body to enforce this ruling. *Id.* § 552.321(a).

If this ruling requires the governmental body to release all or part of the requested information, the governmental body is responsible for taking the next step. Based on the statute, the attorney general expects that, within 10 calendar days of this ruling, the governmental body will do one of the following three things: 1) release the public records; 2) notify the requestor of the exact day, time, and place that copies of the records will be provided or that the records can be inspected; or 3) notify the requestor of the governmental body's intent to challenge this letter ruling in court. If the governmental body fails to do one of these three things within 10 calendar days of this ruling, then the requestor should report that failure to the attorney general's Open Government Hotline, toll free, at 877/673-6839. The requestor may also file a complaint with the district or county attorney. *Id.* § 552.3215(e).

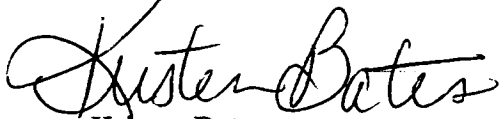
If this ruling requires or permits the governmental body to withhold all or some of the requested information, the requestor can appeal that decision by suing the governmental body. *Id.* § 552.321(a); *Texas Department of Public Safety v. Gilbreath*, 842 S.W.2d 408, 411 (Tex. App.--Austin 1992, no writ).

Please remember that under the Act the release of information triggers certain procedures for costs and charges to the requestor. If records are released in compliance with this ruling, be

sure that all charges for the information are at or below the legal amounts. Questions or complaints about over-charging must be directed to Hadassah Schloss at the Texas Building and Procurement Commission at 512/475-2497.

If the governmental body, the requestor, or any other person has questions or comments about this ruling, they may contact our office. We note that a third party may challenge this ruling by filing suit seeking to withhold information from a requestor. Gov't Code § 552.325. Although there is no statutory deadline for contacting us, the attorney general prefers to receive any comments within 10 calendar days of the date of this ruling.

Sincerely,

A handwritten signature in cursive script that reads "Kristen Bates".

Kristen Bates  
Assistant Attorney General  
Open Records Division

KAB/seg

Ref: ID# 161810

Enc: Submitted documents

c: Mr. Scott E. Williams  
The Daily News  
8522 Teichman Road  
Galveston, Texas 77554  
(w/o enclosures)